



Economic Regulation Authority

Gas Trading Licence

IPower2 Pty Ltd and IPower Pty Ltd (trading as
Simply Energy)

GTL16, Version 3, 25 November 2021

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Licence history

Version no.	Version date	Details
1	6 February 2018	Grant of licence.
2	1 January 2020	Insertion of amended compendium of gas customer licence obligations.
3	25 November 2021	Amended by substitution – Gas Licence Review 2020.

ENERGY COORDINATION ACT 1994 (WA)

Licensee Name:	IPower2 Pty Ltd and IPower Pty Ltd (trading as Simply Energy)
	ABN 67 269 241 237
Licence Area:	The area set out in the plan referred to in clause 2.5.
Licence Number:	GTL16
Commencement Date:	6 June 2018
Version Number:	3
Expiry Date	5 June 2028

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1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

1.1.1 In this licence, the following definitions apply unless the context otherwise requires:

Act means *the Energy Coordination Act 1994 (WA)*.

another supplier means a person other than the *licensee* who holds a trading licence.

applicable legislation includes:

- (a) the *Act*; and
- (b) the *Regulations* and the *gas marketing code of conduct*.

approved scheme means a scheme approved under Part 2D of the *Act*.

asset management system review means a review of the effectiveness of the asset management system.

audit and review guidelines means the guidelines prepared by the *ERA* setting out the *ERA's* requirements for the conduct of *performance audits* and *asset management system reviews*, as published by the *ERA* on its website and as amended from time to time.

business day means a day which is not a Saturday, Sunday or a Public Holiday in Western Australia.

commencement date means the date the *licence* was first granted or renewed by the *ERA*, whichever is the later being the date specified in clause 2.2.

compendium of gas customer licence obligations means the *Compendium of Gas Customer Licence Obligations* which provides additional *licence* terms and conditions about the conduct of retailers and distributors who supply *gas* to *customers* (as amended from time to time).¹

customer means a person whose consumption of *gas* is less than 1 terajoule per year.

distribution system means:

- (a) a system of pipelines, mains, and gas service pipes, designed to operate at a pressure of less than 1.9 megapascals, for the transportation of *gas* to *customers*; or
- (b) any other part of the *gas distribution system* (as defined in section 90 of the *Gas Corporation Act 1994* repealed by section 93 of the *Gas Corporation (Business Disposal) Act 1999*) at the time when a distribution licence is first issued for all or any part of that system (regardless of the pressure at which it is designed to operate),

and any associated apparatus, facilities, structures, plant, or equipment.

¹ The *compendium of gas customer licence obligations* is also available on the *ERA* [website](#).

electronic means means:

- (a) the internet;
- (b) email, being:
 - (i) in relation to the *ERA*, the *ERA*'s email address as notified to the *licensee*; and
 - (ii) in relation to the *licensee*, the email address specified in the *licence* application or other such email address as notified in writing to the *ERA*; or
 - (iii) any other similar means,

but does not include facsimile or telephone.

ERA means the Economic Regulation Authority.

expiry date means the date specified in clause 2.3.

gas means any gas or mixture of gases, whether naturally occurring or manufactured, intended for use:

- (a) as a fuel; or
- (b) in any chemical process.

gas marketing code of conduct means the *Gas Marketing Code of Conduct* approved by the *ERA* pursuant to section 11ZPM of the *Act* (as amended from time to time).

gas supply contract includes a *standard form contract* and a contract other than a *standard form contract*.

individual performance standards mean any standards prescribed by the *ERA* for an individual *licensee* pursuant to clause 4.6 of the *licence*.

licence means:

- (a) this document (excluding the title page and the third page of this document);
- (b) the Schedules of this document; and
- (c) any *individual performance standards* approved by the *ERA* pursuant to clause 4.6.

licence area is the area stated in clause 2.5.

licensee means IPower2 Pty Ltd and IPower Pty Ltd (trading as Simply Energy), ABN 67 269 241 237.

maintain supply in clause 6.8 means, unless the *licensee* and the customer agree otherwise:

- (a) subject to:
 - (i) the terms of the *gas supply contract* between the *licensee* and the *customer*; and
 - (ii) paragraph (b),

the *licensee* must supply *gas* to the *customer* at the premises, in sufficient quantity to meet the *customer's gas* requirements, for the duration of the *gas supply contract*;
- (b) the maximum quantity of *gas* that the *licensee* is required to supply to a *customer* under paragraph (a) is the quantity of *gas* that can be physically delivered to the *licensee* by the relevant distribution *licensee* using standard residential delivery facilities;
- (c) the *licensee* must not terminate, or purport to terminate, the *gas supply contract* other than in accordance with its terms; and
- (d) if the *gas supply contract* expires or is terminated in accordance with its terms, then:
 - (i) subject to subparagraph (ii), the *licensee* must offer to enter into a *standard form contract* with the *customer* in place of the expired or terminated contract; and
 - (ii) before entering into a contract in place of the expired or terminated contract, the *licensee* may require the *customer* to meet the *licensee's* reasonable minimum prudential requirements and credit standards.

non-standard contract has the meaning in section 11WB of the *Act*.

notice means a written notice, agreement, consent, direction, representation, advice, statement or other communication required or given pursuant to or in connection with, this *licence*.

performance audit means an audit of the effectiveness of measures taken by the *licensee* to meet the *performance criteria* in this *licence*.

performance criteria means:

- (a) the *terms and conditions* of the *licence*; and
- (b) any other relevant matter in connection with the *applicable legislation* that the *ERA* determines should form part of the performance audit.

publish in relation to a report or information means either:

- (a) posting the report or information on the *licensee's* website; or
- (b) sending the report or information to the *ERA* to be published on the *ERA's* website.

Regulations mean any regulations in force from time to time made pursuant to the *Act* and includes:

- (a) the *Energy Coordination (Customer Contracts) Regulations 2004*;
- (b) the *Energy Coordination (Last Resort Supply) Regulations 2005*;
- (c) the *Economic Regulation Authority (Licensing Funding) Regulations 2014*;
- (d) the *Energy Coordination (Ombudsman Scheme) Regulations 2004*; and
- (e) the *Energy Coordination (Gas Tariffs) Regulations 2000*.

related body corporate has the meaning as defined in section 50 of the *Corporations Act 2001 (Cwlth)*.

reviewable decision means a decision by the *ERA* pursuant to:

- (a) clause 3.8.1;
- (b) clause 4.5.1;
- (c) clause 4.6.2;
- (d) clause 6.4.2;
- (e) clause 6.4.3; and
- (f) clause 6.6.1,

of this *licence*.

Schedule means a schedule to this *licence*.

standard form contract has the meaning given to that term in section 11WB of the *Act*.

supplier of last resort has the meaning as defined in Part 2A, Division 6A of the *Act*.

terms and conditions means the terms and conditions in this *licence* including any terms and conditions contained in the *Schedules* and the *compendium of gas customer licence obligations*.

1.2 Interpretation

- 1.2.1 A reference in this *licence* to any *applicable legislation* includes, unless the context otherwise requires, any statutory modification, amendment, replacement or re-enactment of that *applicable legislation*.

2. LICENCE AUTHORISATION

2.1 Activities authorised under this licence

- 2.1.1 The *licensee* is granted a *licence* for the *licence area(s)* to sell gas transported through a *distribution system* to *customers* in accordance with the *terms and conditions* of this *licence*. The *licensee* must comply with the *terms and conditions* of this *licence*.

including the additional terms and conditions contained in the *compendium of gas customer licence obligations* and those terms and conditions contained in the *Schedules*.

2.2 Commencement date

2.2.1 The *commencement date* of this *licence* is 6 June 2018.

2.3 Expiry date

2.3.1 The *expiry date* of this *licence* is 5 June 2028.

2.4 Term [Section 11O of the Act]

2.4.1 This *licence* commences on the *commencement date* and continues until the earlier of:

- (a) the cancellation of the *licence* pursuant to clause 3.5 of this *licence*;
- (b) the surrender of the *licence* pursuant to clause 3.6 of this *licence*; or
- (c) the *expiry date*.

2.5 Licence area

2.5.1 The *licence area* is:

Coastal gas supply area as shown in plan ERA-GAS-016.

2.5.2 The *licence area* plan is provided in *Schedule 2*.

3. LICENCE ADMINISTRATION

3.1 Amendment of licence on application of the licensee [Section 11VA of the Act]

The *licensee* may apply to the *ERA* to amend the *licence* in accordance with the *Act*.

3.2 Amendment of licence by ERA [Section 11W of the Act]

3.2.1 The *ERA* may amend the *licence* on its own initiative in accordance with the *Act* and the procedure specified in clause 3.2.2.

3.2.2 Before amending the *licence* under clause 3.2.1, the *ERA* must:

- (a) provide the *licensee* with *notice* of the proposed amendments under consideration by the *ERA*;
- (b) allow 15 *business days* for the *licensee* to make submissions on the proposed amendments; and
- (c) take into consideration those submissions.

3.2.3 This clause also applies to the substitution of the existing *licence*.

3.3 Transfer of licence
[Section 11R of the Act]

3.3.1 This *licence* may be transferred only in accordance with the *Act*.

3.4 Renewal of licence
[Section 11P of the Act]

3.4.1 This *licence* may be renewed only in accordance with the *Act*.

3.5 Cancellation of licence
[Section 11ZE of the Act]

3.5.1 This *licence* may be cancelled only in accordance with the *Act*.

3.6 Surrender of licence
[Section 1A of the Act]

3.6.1 The *licensee* may initiate a surrender of the *licence* by *notice* to the *ERA* nominating a date the surrender will take effect from. The surrender date cannot be less than 10 *business days* from the date the *ERA* receives the *notice*.

3.6.2 The *ERA* will publish a notice of the surrender in the Western Australian Government Gazette as soon as practicable after the date the licence has been surrendered.

3.6.3 The *licensee* will not be entitled to a refund of any fees by the *ERA*.

3.7 Notices

3.7.1 Unless otherwise specified, all *notices* must be in writing.

3.7.2 A *notice* will be regarded as having been sent and received:

- (a) when delivered in person to the addressee; or
- (b) three *business days* after the date of posting if the *notice* is posted in Western Australia; or
- (c) five *business days* after the date of posting if the *notice* is posted outside Western Australia; or
- (d) if sent by *electronic means* when, according to the sender's electronic record, the *notice* has been successfully sent to the addressee.

3.8 Publishing information

3.8.1 The *ERA* may direct the *licensee* to *publish*, within a specified timeframe, any information it considers relevant in connection with the *licensee* or the performance by the *licensee* of its obligations under this *licence*.

3.8.2 Subject to clause 3.8.3, the *licensee* must *publish* the information referred to in clause 3.8.1.

3.8.3 If the *licensee* considers that the information is confidential it must:

- (a) immediately notify the *ERA*; and
- (b) seek a review of the *ERA*'s decision in accordance with clause 3.9.

3.8.4 Once it has reviewed the decision, the *ERA* will direct the *licensee* in accordance with the review to:

- (a) *publish* the information;
- (b) *publish* the information with the confidential information removed or modified; or
- (c) not *publish* the information.

3.9 Review of the ERA's decision

3.9.1 The *licensee* may seek a review of a *reviewable decision* by the *ERA* pursuant to this *licence* in accordance with the following procedure:

- (a) the *licensee* shall make a submission on the subject of the *reviewable decision* within 10 *business days* (or other period as approved by the *ERA*) of the decision; and
- (b) the *ERA* will consider the submission and provide the *licensee* with a written response within 20 *business days*.

4. GENERAL LICENCE OBLIGATIONS

4.1 Compliance with applicable legislation and licence conditions

4.1.1 Subject to any modifications or exemptions granted pursuant to the *Act*, the *licensee* must comply with any *applicable legislation*.

4.1.2 Subject to the provisions of any *applicable legislation*, the *ERA* may direct the *licensee* in writing to do any measure necessary to:

- (a) correct the breach of any *applicable legislation*; or
 - (b) prevent the breach of any *applicable legislation* occurring again,
- and specify a time limit by which such action must be taken.

4.1.3 The *licensee* must comply with the *terms and conditions* of this *licence*.

4.2 Fees

4.2.1 The *licensee* must pay the applicable fees and charges in accordance with the *Regulations*.

4.3 Accounting records

- 4.3.1 The *licensee* and any *related body corporate* must maintain accounting records that comply with standards issued by the Australian Accounting Standards Board or equivalent International Accounting Standards.

4.4 Reporting a change in circumstances

- 4.4.1 The *licensee* must report to the *ERA*:

- (a) if the *licensee* is under external administration as defined by the *Corporations Act 2001 (Cwlth)* within two *business days* of such external administration occurring; or
- (b) if:
 - (i) the *licensee* experiences a change in its corporate, financial or technical circumstances upon which this *licence* was granted; and
 - (ii) the change may materially affect the *licensee's* ability to perform its obligations under this *licence*,within 10 *business days* of the change occurring; or
- (c) if:
 - (i) the *licensee's* name;
 - (ii) the *licensee's* ABN; or
 - (iii) the *licensee's* address;changes, within 10 *business days* of the change occurring.

4.5 Provision of information

- 4.5.1 The *licensee* must provide to the *ERA* any information that the *ERA* may require in connection with its functions under the *Act* in the time, manner and form specified by the *ERA*.

4.6 Individual performance standards

- 4.6.1 Performance standards are contained in *applicable legislation*.
- 4.6.2 The *ERA* may prescribe *individual performance standards* in relation to the *licensee* of its obligations under this *licence* or the *applicable legislation*.
- 4.6.3 Before approving any *individual performance standards* under this clause, the *ERA* will:
- (a) provide the *licensee* with a copy of the proposed *individual performance standards*;
 - (b) allow 15 *business days* for the *licensee* to make submissions on the proposed *individual performance standards*; and
 - (c) take into consideration those submissions.

- 4.6.4 Once approved by the *ERA*, the *performance standards* are included as additional *terms and conditions* to this *licence*.

5. AUDIT OBLIGATIONS

5.1 Performance audit [Section 11ZA of the Act]

- 5.1.1 The *licensee* must, unless otherwise notified in writing by the *ERA*, provide the *ERA* with a *performance audit* within 24 months after the *commencement date*, and every 24 months thereafter.
- 5.1.2 The *licensee* must comply, and must require the *licensee's* auditor to comply, with the *ERA's audit and review guidelines* dealing with the *performance audit*, including any minimum requirements relating to the appointment of the auditor, the scope of the audit, the conduct of the audit and the reporting of the results of the audit.
- 5.1.3 The *performance audit* must be conducted by an independent auditor approved by the *ERA*. If the *licensee* fails to nominate an auditor within one month of the date that the *performance audit* was due, or the auditor nominated by the *licensee* is rejected on two successive occasions by the *ERA*, the *ERA* may choose an independent auditor to conduct the *performance audit*.

6. CUSTOMERS

6.1 Approved scheme [Section 11ZQH of the Act]

- 6.1.1 The *licensee*:
- (a) must be a member of an *approved scheme*; and
 - (b) is bound by, and must be compliant with, any decision or direction of the gas industry ombudsman under the *approved scheme*.

6.2 Gas Marketing Code of Conduct [Section 11ZPP of the Act]

- 6.2.1 The *licensee* must comply with the *gas marketing code of conduct*.

6.3 Compendium of Gas Customer Licence Obligations

- 6.3.1 The *licensee* must comply with the additional *licence terms and conditions* contained in the *compendium of gas customer licence obligations*, a copy of which will be provided to the *licensee* by *electronic means* upon the grant of the *licence*.²
- 6.3.2 The *ERA*, in its sole discretion, may amend the *compendium of gas customer licence obligations* from time to time.
- 6.3.3 The *ERA* reviews the *compendium of gas customer licence obligations* approximately every two years.

² The *compendium of gas customer licence obligations* is also available on the *ERA* [website](#).

- 6.3.4 Each time the *compendium of gas customer licence obligations* is amended, the *ERA* will send access to the amended version to the *licensee* by *electronic means*.

6.4 Customer contracts
[Section 11WG of the Act]

- 6.4.1 Subject to the *Regulations*, the *licensee* must not supply *gas* to a *customer* otherwise than under:

- (a) a *standard form contract*; or
- (b) a *non-standard contract*.

- 6.4.2 The *licensee* must, if directed by the *ERA*, review the *standard form contract* and submit to the *ERA* the results of that review within the time specified by the *ERA*.

- 6.4.3 The *licensee* must comply with any direction given by the *ERA* in relation to the scope, process or methodology of the review referred to in clause 6.4.2.

6.5 Amending the standard form contract
[Section 11WH of the Act]

- 6.5.1 The *standard form contract* may only be amended in accordance with the *Act* and the *Regulations*.

- 6.5.2 The *licensee* may amend the *standard form contract* at any time by submitting to the *ERA*:

- (a) a proposed amendment to the *standard form contract*; or
- (b) a proposed substituted *standard form contract*.

- 6.5.3 The *ERA* may:

- (a) approve the amendment to the *standard form contract* or substituted *standard form contract*; or
- (b) specify the amendments the *licensee* must make to the amended or substituted *standard form contract* before the *ERA* will approve the *standard form contract*,

and notify the *licensee* of its decision within a reasonable time.

6.6 Directions by the ERA to amend standard form contract
[Section 11WI of the Act]

- 6.6.1 The *licensee* must comply with any direction by the *ERA* pursuant to section 11WI of the *Act*.

- 6.6.2 The *ERA* may, at any time, by *notice*, direct the *licensee* to amend the *standard form contract* by specifying:

- (a) the amendments to be made to the *standard form contract*; and
- (b) the date the amendments need to be submitted to the *ERA*.

6.7 Supplier of last resort
[Section 11ZAJ of the Act]

- 6.7.1 If the *licensee* is designated a *supplier of last resort* under the *Act*, the *licensee* must perform the functions of the *supplier of last resort*.

6.8 Obligation to maintain supply

- 6.8.1 If the *licensee* supplies, or within the last 12 months has previously supplied but is not currently supplying, *gas to a customer* at the premises, then subject to clause 6.8.2, the *licensee* must *maintain supply* to that *customer* at the premises.
- 6.8.2 If at any time *another supplier* starts to supply *gas* to the *customer* at the premises, then, from the time that supply starts, the obligation under clause 6.8.1 ends until such time that the *licensee* resumes supplying *gas* to the *customer* at the premises.

Schedule 1 – Additional Licence Clauses

1. Definitions

commence supply means to offer, subject to clause 2.10, to enter a *standard form contract* with a *customer* who is the owner or occupier of *eligible premises* for the sale of *gas* to those premises.

eligible premises means premises located within the *licence area* which meet at least one of the following criteria:

- (a) connected to a *distribution system*;
- (b) to be connected to a *distribution system* prior to the requested date of commencing sale; or
- (c) so located (and, if applicable, of such a nature) that the holder of a distribution licence can be obliged under a provision of the distribution licence to connect the premises to a *distribution system* if certain conditions are satisfied.

Minister means the Minister for Energy or any other Responsible Minister for the Energy Portfolio in the State of Western Australia.

relevant other supplier means *another supplier* who is able to sell *gas* to a *customer* who is the owner or occupier of *eligible premises*.

relevant distribution system in clause 3 means the *distribution system* through which *gas* is transported for sale by the *licensee* under this *licence*.

2. ERA may direct licensee to commence supply

2.1 Subject to clauses 2.2 and 2.3, the *ERA* may direct the *licensee* to *commence supply* to a *customer* who:

- (a) is the owner or occupier of *eligible premises*; and
- (b) is specified in the direction.

2.2 The *ERA* must not make a direction under clause 2.1 in respect of a *customer* unless it is satisfied that:

- (a) the *licensee* has failed or refused to *commence supply* to the *customer*; and
- (b) the *customer's* efforts to obtain a supply of *gas* from the *licensee* were reasonably adequate.

2.3 Without limiting clause 2.2, if the *ERA* is satisfied that a *customer* has been refused supply by both the *licensee* and one or more *relevant other suppliers*, then the *ERA* must:

- (a) consider which (if any) of the *licensee* and the *relevant other supplier* or *relevant other suppliers* should be directed to *commence supply*; and
- (b) for the purposes of clause 2.3(a):

- (i) take into account each of the matters referred to in section 11H(3) of the *Act*; and
 - (ii) endeavour to fairly apportion directions to *commence supply* between the *relevant other suppliers* and the *licensee*.
- 2.4 The *ERA* may, to assist it to determine whether to make a direction under clause 2.1, request the *licensee*, by notice in writing, to provide its reasons for refusing to *commence supply* to a *customer*.
- 2.5 The *licensee* must comply with a request of the *ERA* under clause 2.4 within 3 *business days* after a request by the *ERA*.
- 2.6 A direction under clause 2.1:
 - (a) must set out the *ERA*'s reasons for giving the direction; and
 - (b) may be given on reasonable terms and conditions, and if so, must set out those terms and conditions.
- 2.7 Subject to clauses 2.8 and 2.10, the *licensee* must comply with a direction by the *ERA* under clause 2.1.
- 2.8 If the *licensee* is directed under clause 2.1 to *commence supply* to any *customer* at premises referred to in paragraph (c) of the definition of *eligible premises*, then subject to clause 2.9, the *licensee* must apply to have the *eligible premises* connected to the *distribution system* and must make reasonable endeavours to meet the requirements referred to in that paragraph (c).
- 2.9 Clause 2.8 does not require the *licensee* to pay the costs of connecting premises in excess of the amount the holder of the distribution licence is required by the distribution licence to bear.
- 2.10 The *licensee* may make an offer referred to in the definition of *commence supply* conditional upon the *customer* meeting the *licensee*'s reasonable minimum prudential requirements and credit standards.
- 3. Exchange of information between licensee and the holder of a trading licence**
 - 3.1 Subject to clause 3.2, the *licensee* must provide reasonable information relating to its activities the subject of this *licence* as requested by the holder of a distribution licence in respect of the *relevant distribution system* to enable the holder of the distribution licence to provide for the safe and efficient operation of the *relevant distribution system*.
 - 3.2 The *licensee* may refuse to provide information under clause 3.1, if its disclosure prejudices the commercial interests of the *licensee*.
 - 3.3 Where the *licensee* refuses under subclause 3.2 to provide information, the *ERA* may direct the *licensee* to provide the information in a categorised or aggregated form to the extent necessary to ensure the disclosure of the information is, in the opinion of the *ERA*, not unduly harmful to the commercial interests of the *licensee*.

4. Notification of changes to fees and charges

- 4.1 The *licensee* must notify the *Minister* at least one month before a change to any price, price structure, fee or interest rate under the *standard form contract* is to come into effect.

Schedule 2 – Licence Area

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